

PROPOSITION 55
SUBJECT TO COURT
ORDERED CHANGES

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PROPOSITION 55

November 14, 2003

Kindergarten-University Public

Education Facilities Bond Act of 2004.

Chapter 33, Statutes of 2002 (AB 16).

Sponsors: Assembly Members Robert M. Hertzberg,
Herb Wesson, Bill Leonard, Marco Antonio Firebaugh,
Jackie Goldberg, and Virginia Strom-Martin and
Senators Dede Alpert and Wesley Chesbro

BALLOT TITLE AND SUMMARY

KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2004.

- This act provides for a bond issue of twelve billion three hundred million dollars (\$12,300,000,000) to fund necessary education facilities to relieve overcrowding and to repair older schools.
- Funds will be targeted to areas of greatest need and must be spent according to strict accountability measures.
- Funds will also be used to upgrade and build new classrooms in the California Community Colleges, the California State University, and the University of California, to provide adequate higher education facilities to accommodate growing student enrollment.
- Appropriates money from General Fund to pay off bonds.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State costs of about \$24.7 billion to pay off both the principal (\$12.3 billion) and interest (\$12.4 billion) costs on the bonds. Payments of about \$823 million per year.

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Legislative Analyst's Office
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Proposition 55

Kindergarten-University Public Education Facilities Bond Act of 2004

BACKGROUND

Public education in California consists of two distinct systems. One system includes local school districts that provide elementary and secondary (kindergarten through 12th grade, or "K-12") education to about 6.2 million pupils. The other system (commonly referred to as "higher education") includes the California Community Colleges (CCCs), the California State University (CSU), and the University of California (UC). The three segments of higher education provide education programs beyond the 12th grade to the equivalent of about 1.6 million full-time students.

K-12 Schools

School Facilities Funding. The K-12 schools receive funding for construction and modernization (that is, renovation) of facilities from two main sources—state general obligation bonds and local general obligation bonds. General obligation bonds are backed by the state and school districts, meaning that they are obligated to pay the principal and interest costs on these bonds.

- *State General Obligation Bonds.* The state, through the School Facility Program (SFP), provides money for school districts to buy land and to construct and renovate K-12 school buildings. Districts receive funding for construction and renovation based on the number of pupils who meet the eligibility criteria of the program. The cost of school construction projects is

shared between the state and local school districts. The state pays 50 percent of the cost of new construction projects and 60 percent of the cost for approved modernization projects. (Local matches are not necessary in "hardship" cases.) The state has funded the SFP by issuing general obligation bonds. General Fund revenues would be used to pay these costs. These revenues come primarily from state income and sales taxes. Over the past decade, voters have approved a total of \$20.1 billion in state bonds for K-12 school construction. About \$1.9 billion of these funds remain available for expenditure.

- ***Local General Obligation Bonds.*** School districts are authorized to sell general obligation bonds to finance school construction projects with the approval of 55 percent of the voters in the district. These bonds are paid off by taxes on real property located within the district. Over the last ten years, school districts have received voter approval to issue more than \$37 billion of general obligation bonds.

Although school facilities have been funded primarily from state and local general obligation bonds, school districts also receive significant funds from:

- ***Developer Fees.*** State law authorizes school districts to impose developer fees on new construction. These fees are levied on new residential, commercial, and industrial developments. Statewide, school districts report having

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received an average of over \$400 million a year in developer fees over the last decade.

- *Special Local Bonds (Known as "Mello-Roos" Bonds).* School districts may form special districts in order to sell bonds for school construction projects. (These special districts generally do not encompass the entire school district.) The bonds, which require two-thirds voter approval, are paid off by charges assessed to property owners in the special district. Statewide, school districts have received on average about \$270 million a year in special local bond proceeds over the past ten years.

K-12 School Building Needs. Under the SFP, K-12 school districts must demonstrate the need for new or modernized facilities. Through September 2004, the districts have identified a need to construct new schools to house nearly 1 million pupils and modernize schools for an additional 1.1 million pupils. The state cost to address these needs is estimated to be roughly \$16 billion.

Higher Education

California's system of public higher education includes 141 campuses in the three segments listed below, serving about 1.6 million students:

- The CCCs provide instruction to 1.1 million students at 108 campuses operated by 72 locally governed districts throughout the state. The community colleges grant associate degrees and also offer a variety of vocational skill courses.

- The CSU has 23 campuses, with an enrollment of about 331,000 students. The system grants bachelor and master degrees, and a small number of joint doctoral degrees with UC.
- The UC has nine general campuses, one health sciences campus, and various affiliated institutions, with a total enrollment of about 201,000 students. This system offers bachelor, master, and doctoral degrees, and is the primary state-supported agency for conducting research.

Over the past decade, the voters have approved \$5.1 billion in general obligation bonds for capital improvements at public higher education campuses. Virtually all of these funds have been committed to specific projects. The state also has provided almost \$1.6 billion in lease revenue bonds (authorized by the Legislature) for this same purpose.

In addition to these state bonds, the higher education segments have other sources of funding for capital projects.

- ***Local General Obligation Bonds.*** Community college districts are authorized to sell general obligation bonds to finance school construction projects with the approval of 55 percent of the voters in the district. These bonds are paid off by taxes on real property located within the district. Over the last decade, community college districts have received local voter approval to issue over \$7 billion of bonds for construction and renovation of facilities.

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- *Gifts and Grants.* The CSU and UC in recent years together have received on average over \$100 million annually in gifts and grants for construction of facilities.
- *UC Research Revenue.* The UC finances the construction of new research facilities by selling bonds and pledging future research revenue for their repayment. Currently, UC uses about \$130 million a year of research revenue to pay off these bonds.

Higher Education Building Plans. Each year the institutions of higher education prepare capital outlay plans in which they identify project priorities over the next few years. Higher education capital outlay projects in the most recent plans total \$5.3 billion for the period 2003-04 through 2007-08.

PROPOSAL

This measure allows the state to issue \$12.3 billion of general obligation bonds for construction and renovation of K-12 school facilities (\$10 billion) and higher education facilities (\$2.3 billion). Figure 1 shows how these bond funds would be allocated to K-12 and higher education.

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Figure 1	
Proposition 55	
Uses of Bond Funds	
	Amount (In Millions)
K-12	
New construction projects	\$5,260 ^a
Modernization projects	2,250
Critically overcrowded schools	2,440
Joint use	50
Subtotal, K-12	(\$10,000) ^b
Higher Education	
Community Colleges	\$920
California State University	690
University of California	690
Subtotal, Higher Education	(\$2,300)
Total	\$12,300
^a Up to \$300 million available for charter schools.	
^b Up to \$20 million available for energy conservation projects.	

Future Education Bond Act. If the voters do not approve this measure, state law requires the same bond issue to be placed on the November 2004 ballot.

K-12 School Facilities

Figure 1 describes generally how the \$10 billion for K-12 school projects would be allocated. However, the measure would permit changes in this allocation with the approval of the Legislature and Governor.

New Construction. A total of \$5.26 billion would be available to buy land and construct *new* school buildings. A district would be required to pay for 50 percent of costs with local resources unless it qualifies for state hardship funding. The measure

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also provides that up to \$300 million of these new construction funds is available for charter school facilities. (Charter schools are public schools that operate independently of many of the requirements of regular public schools.)

Modernization. The proposition makes \$2.25 billion available for the reconstruction or modernization of *existing* school facilities. Districts would be required to pay 40 percent of project costs from local resources.

Critically Overcrowded Schools. This proposition directs a total of \$2.44 billion to districts with schools which are considered critically overcrowded. These funds would go to schools that have a large number of pupils relative to the size of the school site.

Joint-Use Projects. The measure makes a total of \$50 million available to fund joint-use projects. (An example of a joint-use project is a facility constructed for use by both a K-12 school district and a local library district.)

Higher Education Facilities

The measure includes \$2.3 billion to construct new buildings and related infrastructure, alter existing buildings, and purchase equipment for use in these buildings for California's public higher education systems. As Figure 1 shows, the measure allocates \$690 million each to UC and CSU and \$920 million to CCCs. The Governor and the Legislature would select the specific projects to be funded by the bond monies.

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FISCAL EFFECT

The cost of these bonds would depend on their interest rates and the time period over which they are repaid. If the \$12.3 billion in bonds authorized by this proposition is sold at an interest rate of 5.25 percent (the current rate for this type of bond) and repaid over 30 years, the cost over the period would be about \$24.7 billion to pay off both the principal (\$12.3 billion) and interest (\$12.4 billion). The average payment for principal and interest would be about \$823 million per year.

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Our kids deserve clean, safe classrooms if we expect them to succeed. But many students are asked to learn in classrooms that are rundown and overcrowded.

California needs to invest in education to invest in the future of our children. Fixing rundown classrooms and building new schools to reduce overcrowding is one way to help students improve test scores and meet higher standards.

Passing Proposition 55 will invest in our kids' future and enact strict accountability standards that make sure school bond funds go directly to repair and build new classrooms where they're most needed.

PARENTS SUPPORT Proposition 55 because it FIXES OLD AND OUTDATED CLASSROOMS in need of repair.

Recent surveys show that one million children attend schools with bathrooms that don't work.

Our kids deserve better. Prop. 55:

- FIXES LEAKY ROOFS, REPAIRS BROKEN BATHROOMS, and puts heating and air conditioning in classrooms.
- Helps make sure kids go to school in SAFE BUILDINGS that meet earthquake and fire standards.

LOCAL TEACHERS SUPPORT Proposition 55 because it PROVIDES COMMUNITIES MATCHING STATE FUNDS TO BUILD NEW LOCAL SCHOOLS.

California needs to build more than 22,000 classrooms to relieve overcrowding and deal with increasing student enrollment. Proposition 55 provides matching state funds for local school projects and will:

- BUILD NEW LOCAL SCHOOLS up and down the state.
- BUILD NEW CLASSROOMS to relieve overcrowding and reduce class sizes.

The CALIFORNIA TAXPAYERS' ASSOCIATION supports Proposition 55's STRICT ACCOUNTABILITY PROVISIONS.

- INDEPENDENT AUDITS, COST CONTROLS and other accountability requirements guard against waste and mismanagement and provide oversight of ALL school projects.
- Funds can only be spent to repair or build schools, NOT on bureaucracy or waste.

The CALIFORNIA STATE PTA supports Proposition 55 because it TARGETS FUNDS WHERE THEY'RE NEEDED MOST.

- Prop. 55 provides specific funding to build *new schools in areas where classrooms are severely overcrowded*.
- New and growing communities also receive their *fair share* to build the schools and classrooms they need.

The CALIFORNIA STATE UNIVERSITY, California COMMUNITY COLLEGES and UNIVERSITY OF CALIFORNIA support Proposition 55.

- Proposition 55 provides funds for colleges and universities to build classrooms and modernize research facilities that help create jobs and grow California's economy.

The CALIFORNIA CHAMBER OF COMMERCE supports Proposition 55 because it INVESTS
IN OUR ECONOMY AND OUR FUTURE WORKFORCE.

- School construction is a direct investment in the economy. Proposition 55 projects will
CREATE HUNDREDS OF THOUSANDS OF NEW JOBS throughout California.
- Prop. 55 provides money to *wire classrooms* and give students the tools they need to
become tomorrow's leaders.

Passing Proposition 55 will invest in our kids' future by fixing rundown classrooms and building
new schools. Strict accountability requirements ensure funds are spent only on school repair and
construction.

And Prop. 55 is a general obligation bond that WILL NOT RAISE TAXES.

Join Republicans, Democrats and Independents, local teachers, taxpayer organizations,
community groups, local businesses, the California Chamber of Commerce, California State
PTA and millions of Californians who support our schools.

VOTE YES ON PROPOSITION 55.

Barbara Kerr, President
California Teachers Association

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ARGUMENT IN FAVOR OF PROPOSITION 55

Larry McCarthy, President
California Taxpayers' Association

Bill Hauck, Co-Chair
Californians for Accountability and Better Schools

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REBUTTAL TO ARGUMENT IN FAVOR OF

PROPOSITION 55

**Rebuttal to the Ballot Argument in favor of Proposition 55
The Kindergarten-University Public Education Facilities Bond Act of 2004
(\$12.3 Billion School Bond)**

Submitted by State Senator Thomas "Rico" Oller

We need to make school construction a priority for California
— without increasing our debt.

The proponents' ridiculous claim that this bond "will not raise taxes" is a preposterous misrepresentation. Bond funds can only be repaid with tax dollars. We must either cut services or increase taxes to repay this bond.

Fortunately, there is a better way to build schools. This year, the state spent \$3,542,000,000 for school construction (equivalent to 3.5% of the state's \$101,174,000,000 budget). If we spent just 5% of the next five budgets on school construction, we would raise TWICE as much money as this bond. We could build twice as many schools and save taxpayers more than \$12 billion in interest!

We don't need new debt or higher taxes. We just need to tell Sacramento to make school construction a priority.

Proponents claim that funds from Proposition 55 "can only be spent to repair or build schools, NOT on bureaucracy or waste."

This is nonsense. School construction in California is plagued by

waste, bureaucracy, and ridiculous government mandates. This bond does nothing to eliminate bureaucracy, waste or mandates.

The proponents promise to build schools “up and down the state,” but they don’t mention that the money will only be spent in districts wealthy enough to raise the 40% matching funds. HALF OF ALL SCHOOL DISTRICTS RECEIVED NOTHING FROM THE LAST SCHOOL BOND. There is no guarantee that your school

district will receive a penny from this bond, but you will be forced to pay it back.

Rico Oller
State Senator, First Senate District

Lew Uhler
President, National Tax-Limitation Committee

Henry A. Hough
Senior Vice President, 60-Plus Association

REBUTTAL TO ARGUMENT IN FAVOR OF
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Ballot Argument Against Proposition 55
The Kindergarten-University Public Education Facilities Bond Act of 2004
(\$12.3 Billion School Bond)
Submitted by State Senator Thomas "Rico" Oller

California is facing the most severe financial crisis in the history of any state. Last year, California's budget deficit nearly equaled the *combined* deficits of all other states. Our state's credit rating is the very worst in the nation and our bonds are slipping toward "junk bond" status. To make matters worse, former Governor Davis and the Legislature borrowed more than \$13 billion dollars last year just to pay the bills. Next year's estimated budget deficit is already over \$10 billion and the bad news keeps coming. We are in such dire fiscal straits that the Treasurer has not been able to issue \$28 billion of the \$73 billion dollars in statewide bonds that have already been approved.

The results of this financial mismanagement are staggering. For decades, we will be forced to pay higher taxes just to pay back what we have already borrowed. Even without new bonds, our crippling debt load will make it much more difficult for government to respond to natural disasters and recessions. Today's schoolchildren will still be paying for this bond long after their own children have graduated!

At a time when Governor Schwarzenegger and the Legislature struggle to find ways to pay for the \$73,000,000,000 in previously approved debt, this measure would dig us deeper into a financial hole. At \$12,300,000,000, Proposition 55 rivals the largest bond in the history of any American state. We simply cannot afford it.

It is time for us to take a new look at the way we build schools in California. The effect of compound interest and the fees paid to lawyers, Wall Street bond traders, and bureaucrats generally doubles the cost of facilities built with bonds. This bond does not even contain an interest rate cap, so the true costs could be much higher, especially if California voters approve additional bonds in this election. **WE COULD BUILD MANY MORE SCHOOLS IF WE ADOPTED A MORE FISCALLY-RESPONSIBLE APPROACH.** Since California has thousands and thousands of public schools, why not simply build and renovate some number each year? That way, we wouldn't need to go into debt or threaten our financial stability. We just need to impress upon Sacramento that school construction is a priority.

Before voting, please take a close look at the bond's language. The drafters cleverly set aside more than a quarter of the bond funds for the Los Angeles Unified School District. Only 12% of our state's schoolchildren attend school there. This isn't fair and it isn't right.

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To add insult to injury, Proposition 55 requires local school districts to provide 40% matching funds to receive ANY money. Does your school district have a huge budget surplus? Unless you live in a wealthy community with surplus cash for the required 40% matching funds, you and your children may never see a penny from this \$12,300,000,000 bond, but you will certainly be required to pay higher taxes to pay back the money for the next 30 years.

Please VOTE NO on Proposition 55.

ARGUMENT AGAINST PROPOSITION 55



Senator Rico Oller
First Senate District

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California can and must continue to invest in education and our kids' future. Proposition 55 will do just that. Don't be fooled by the opponent's distortion of the facts.

Providing safe, clean classrooms will improve student performance and help our children succeed.

CALIFORNIA STATE TREASURER Phil Angelides says "*California's economy is capable of supporting Proposition 55. It's a sound, prudent investment that will contribute to our future economic prosperity.*"

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THE CALIFORNIA TAXPAYERS' ASSOCIATION says, "*Proposition 55 is a fiscally responsible way to finance school repair and construction.*"
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The opponent DELIBERATELY MISREPRESENTED the facts. The truth:

- Every district is eligible for only its FAIR SHARE of Prop. 55 based on need. No district, in Los Angeles or elsewhere, will get more than its fair share.
- Proposition 55 TARGETS FUNDS where they're needed most – districts with critically overcrowded and rundown schools. Visit www.Yeson55.com for a list of Prop. 55 projects and projects financed by the last statewide school bond.
- STRICT ACCOUNTABILITY requirements, COST CONTROLS and independent AUDITS safeguard against waste and mismanagement.
- Proposition 55 provides matching funding to local districts. Without Prop. 55, many communities *cannot* move forward with school repair and construction.

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REBUTTAL TO ARGUMENT AGAINST
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- Proposition 55 is a general obligation bond that WILL NOT RAISE TAXES.

California needs to build 22,000 classrooms to deal with overcrowding and increasing enrollment. Tens of thousands of schools need basic repairs – fixing leaky roofs and broken bathrooms, installing heating and air conditioning.

Vote YES on 55 to FIX RUNDOWN SCHOOLS, build NEW CLASSROOMS and IMPROVE STUDENT LEARNING.

250 words

Carla Niño, President
California State PTA

Allan Zaremberg, President
California Chamber of Commerce

Catherine L. Unger, President
Board of Governors
California Community Colleges

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REBUTTAL TO ARGUMENT AGAINST
PROPOSITION 55

This law proposed by Assembly Bill 16 of the 2001-2002 Regular Session (Chapter 33, Statutes of 2002) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the Education Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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(done - see my note (7/1/02))

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SEC. 31. Part 68.2 (commencing with Section 100800) is added to the Education Code, to read:

**PART 68.2. KINDERGARTEN-UNIVERSITY PUBLIC
EDUCATION FACILITIES BOND ACT OF 2004**

CHAPTER 1. GENERAL

100800. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2004.

100801. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100803. (a) Bonds in the total amount of twelve billion three hundred million dollars (\$12,300,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100844 and 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE

**Article 1. Kindergarten Through 12th Grade School Facilities
Program Provisions**

100810. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 100825) shall be deposited in the 2004 State School Facilities Fund, which is established in Section 17070.40, and shall be allocated by the State Allocation Board pursuant to this chapter.

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100815. All moneys deposited in the 2004 State Facilities Fund for the purposes of this chapter shall be available and, notwithstanding any other provision of law to the contrary, are hereby appropriated to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 100820, to provide funds to repay any money advanced or loaned to the 2004 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

100820. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, as specified in subdivision (a) of Section 100810 shall be allocated in accordance with the following schedule:

(1) The amount of five billion two hundred sixty million dollars (\$5,260,000,000) for project funding for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(A) Of the amount allocated pursuant to this paragraph, up to three hundred million dollars (\$300,000,000) shall be available for providing school facilities to charter schools pursuant to a statute enacted after the effective date of the act enacting this section.

(B) If the Housing and Emergency Shelter Trust Fund Act of 2002 is submitted to the voters at the November 5, 2002, general election and fails passage by the voters, of the amount allocated pursuant to this paragraph, twenty-five million dollars (\$25,000,000) shall be available for the purposes of Sections 51451.5, 51453, and 51455 of the Health and Safety Code.

(2) The amount of two billion two hundred fifty million dollars (\$2,250,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, including, but not limited to, hardship applications.

(3) The amount of two billion four hundred forty million dollars (\$2,440,000,000) for deposit into the 2004 Critically Overcrowded School Facilities Account established within the 2004 State School Facilities Fund pursuant to subdivision (e) of Section 17078.10 for the purposes set forth in Article 11 (commencing with Section 17078.10) of Chapter 12.5 of Part 10 relating to critically overcrowded schools, including, but not limited to, hardship applications, and any other new construction or modernization projects as authorized pursuant to Section 17078.30.

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(4) The amount of fifty million dollars (\$50,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 relating to joint-use projects, including, but not limited to, hardship applications.

(b) School districts may use funds allocated pursuant to paragraph (2) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may, also, be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (4), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (4), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) From the total amounts set forth in paragraphs (1) to (6) inclusive, of subdivision (a), a total of no more than twenty million dollars (\$20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

(f) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.

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Article 2. Kindergarten Through 12th Grade School Facilities Fiscal Provisions

100825. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of ten billion dollars (\$10,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 100844, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

100827. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent of Public Instruction, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers granted to, and duties imposed upon, those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.

100830. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and

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all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board" for purposes of administering the 2004 State School Facilities Fund.

100832. Upon request of the State Allocation Board from time to time, supported by a statement of the apportionments made and to be made for the purposes described in Sections 100815 and 100820, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100834. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

100835. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100840, appropriated without regard to fiscal years.

100836. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

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100838. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100840. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2004 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

100842. All money deposited in the 2004 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100844. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100846. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

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CHAPTER 3. HIGHER EDUCATION FACILITIES

Article 1. General

100850. (a) The system of public higher education in this state includes the University of California, the Hastings College of the Law, the California State University, the California Community Colleges, and their respective off-campus centers.

(b) The 2004 Higher Education Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, the California State University, and the California Community Colleges.

Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

100852. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars (\$690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

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Article 3. Program Provisions Applicable to the California State University

100853. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of six hundred ninety million dollars (\$690,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. Program Provisions Applicable to the California Community Colleges

100854. (a) From the proceeds of bonds issued and sold pursuant to Article 5 (commencing with Section 100900), the sum of nine hundred twenty million dollars (\$920,000,000) shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans

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and working drawings for facilities of the California Community Colleges.

Article 5. Higher Education Fiscal Provisions

100900. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 100800), bonds in the total amount of two billion three hundred million dollars (\$2,300,000,000), not including the amount of any refunding bonds issued in accordance with Section 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California, the California State University, and the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

100910. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2004 Higher Education Capital Outlay Bond Fund is designated as the "board" for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, the California State

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University, and the California Community Colleges, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

100920. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

100925. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

100930. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 100945, appropriated without regard to fiscal years.

100935. The board, as defined in subdivision (b) of Section 100910, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 100910, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

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100940. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

100945. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2004 Higher Education Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, the California State University, or the California Community Colleges shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college. Requests forwarded by the California Community Colleges shall be accompanied by a five-year capital outlay plan reflecting the needs and priorities of the community college system, prioritized on a statewide basis.

100950. All money deposited in the 2004 Higher Education Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

100955. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4

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of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

100960. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

SEC. 31.5. Part 68.2 (commencing with Section 100800) is added to the Education Code, to read:

PART 68.2. KINDERGARTEN-UNIVERSITY PUBLIC
EDUCATION FACILITIES BOND ACT OF 2004

CHAPTER 1. GENERAL

100800. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2004.

100801. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

100803. (a) Bonds in the total amount of twelve billion three hundred million dollars (\$12,300,000,000), not including the amount of any refunding bonds issued in accordance with Sections 100844 and 100955, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

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*If amendments to Ch 33 are
being considered, we
should also make a change to
related submission (b) at
SEC. 36 of Ch 33 (see attached
p 70)*